IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WA.No. 2607 of 2007

AGAINST THE JUDGEMENT IN WP(C).NO21812/2007 Dated 25/09/2007

APPELLANT: PETITIONER:

K.G.R.PANICKER,
S/O.GOVINDA PANICKER,
CONTRACTOR, 'POORNAM', K.R.PURAM,
CHERTHALA, ALAPPUZHA DISTRICT.

BY ADV. SRI.V.N.VASANTHA KUMAR

RESPONDENTS: RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY PUBLIC WORKS (G) DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE SUPERINTENDING ENGINEER,
PWD BRIDGES AND ROAD, SOUTH CIRCLE,
THIRUVANANTHAPURAM.

3. THE EXECUTIVE ENGINEER,
PWD DIVISION, ALAPPUZHA.

BY SENIOR GOVERNMENT PLEADER SMT.K.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 2607 OF 2007

Dated this the 2nd November, 2007

JUDGMENT

H.L.DATTU, C.J.

Appellant/petitioner is a P.W.D Contractor. The State Government and its authorities had awarded a contract to the appellant. According to the appellant, he is eligible and entitled to receive the revised PWD Schedule rates which have come into effect from a particular date. After making an appropriate representation before the respondents to grant him the revised PWD Schedule rates, appellant has approached this Court for the following reliefs. They are:

> "i) Direct the first respondent in the writ petition to allow the revised PWD Schedule of rates come into effect from 01/12/2004 to this work on the ground that the site is handed over on 15/12/04 and subsequent date which up to 31/03/05 and subsequent dates;
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> ii) Direct the first respondent to consider Ext.P5(a) by directing the second and third respondents to recast the estimate of the work on the basis of G.O.(Rt) No.1181/2004/PWD dated 24/11/04 ad allow the difference in the rates, since the work is at present in good."

2. Learned single Judge has rejected the writ petition solely on the ground that for the reliefs sought for in the writ petition the petitioner has to file an appropriate civil suit and those reliefs cannot be adjudicated in a writ proceedings. Aggrieved by the conclusions reached by the learned single Judge, petitioner is before us in the present appeal.

3. After going through the averments made in the writ petition and

the reliefs sought for by the petitioner, we are of the opinion that the learned single Judge was justified in saying that, for the reliefs sought for in the writ petition, the only remedy for the petitioner is to file an appropriate civil suit and that cannot be done in a proceeding under Article 226 of the Constitution of India. In our view, the reasonings and conclusions reached by the learned single Judge are neither erroneous nor illegal. Therefore, interference of the said order is not called for. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/